IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 2259 OF 2006
IN
SUIT NO. 1996 OF 2006

Mr. Humayun Dhanrajgir & Ors. .. Plaintiffs
Versus
Mr. Ezra Aboody .. Defendant

Mentioned.

Mr. I.M.Chagla, Senior Advocate, i/b. M/s. Federal & Rashmikant for Plaintiffs in support of the Notice of Motion.
Mr. D.S.Parikh, Senior Advocate i/b. M/s. Daru Shah & Co. for the Defendant to show cause.

CORAM: S.K.SHAH,J.
DATE : 1st September,2006

P.C.

1. Heard learned Counsel on both sides.

2. On 28th July,2006, both Counsel agreed that the conveyance in respect of the suit property would be executed within four weeks from the said date. Today, during the course of the arguments on both sides, the learned Counsel for the Defendant states that while executing conveyance, the Plaintiffs must obtain-permission of the Bombay Port Trust.

3. The learned Counsel for the Plaintiffs submits that under the agreement with the Bombay Port Trust, there is no restriction for creating sub-lease in favour of the Defendant and, therefore, the permission of the B.P.T. is not necessary. He also submits that in case the Defendant is not satisfied, the Plaintiffs are ready to give an indemnity.

4. In view of this, the conveyance now shall be completed within a period of two weeks from today with whatever indemnity clause is put in the conveyance. Failure to do this within two weeks from today, the relief in terms of prayer clause (b) is granted i.e. the Court Receiver shall take possession of the suit premises. He however, shall not dispossess the Defendant if the Defendant deposits the amount of consideration in this Court. In case the Receiver is not required to take possession, he shall fix the amount of monthly compensation to be paid by the Defendant for occupation of the suit premises within two weeks thereafter. The amount of consideration which the Defendant shall deposit in this Court would be as specified in the letter dated 2.9.2004 i.e. Rs.2,57,35,500/-. In case any amount is already deposited by the Defendant towards the consideration, the same shall be deducted from the total amount which is required to be deposited by the Defendant.

The Notice of Motion is disposed of accordingly.

5. The learned Counsel for the Defendant seeks stay of the operation of this order for a period of four weeks. The learned Counsel for the Plaintiffs opposes. However, in the interest of justice, the operation of this order shall be stayed for a period of two weeks from today.

(S.K.SHAH,J.)